

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER
13-CV-503S

NIAGARA COUNTY, NEW YORK,

Defendant.

On December 15, 2015, the parties filed a Stipulated Consent Decree for this Court's approval. (Docket No. 40.) This Court has reviewed the Complaint, the Consent Decree, and the applicable law. Based on that review, this Court will approve the Consent Decree with one minor modification.

Approval of a proposed consent decree falls squarely within the court's discretion and should be considered in light of the strong policy in favor of encouraging voluntary settlement of litigation. See United States v. Hooker Chems. & Plastics Corp., 776 F.2d 410, 411 (2d Cir. 1985). To warrant approval, the proposed consent decree must (1) arise from and resolve a dispute over which the court has subject-matter jurisdiction, (2) fall within the scope of the case made by the pleadings, and (3) further the objective of the law upon which the complaint was based. See Local No.93, Int'l Ass'n of Firefighters, AFL-CIO C.L.C. v. City of Cleveland, 478 U.S. 501, 525, 106 S.Ct. 3063, 3077, 92 L.Ed.2d 405 (1986); Kozlowski v. Coughlin, 871 F.2d 241, 244 (2d Cir. 1989); United States v. City of New York, 30 F. Supp. 2d 325, 330-31 (E.D.N.Y. 1998).

In addition, "[i]t is well settled that the function of the reviewing court is not to substitute its judgment for that of the parties to the decree but to assure itself that the

terms of the decree are fair and adequate and are not unlawful, unreasonable, or against public policy.” United States v. Hooker Chems. & Plastics Corp., 540 F. Supp. 1067, 1072 (W.D.N.Y. 1982).

The Consent Decree in this case meets these requirements. This Court will therefore approve the Consent Decree, with the single modification that the provision in paragraph 23 providing for a 2-year delay in closing this case is not approved. Rather, the case will be closed, with leave for either party to reopen without fees or costs by the filing of a Motion to Reopen demonstrating good cause within two years of the entry date of this Order. This Court retains jurisdiction over the Consent Decree for purposes of resolving any disputes that may arise from it or entering any orders that may be necessary to implement the relief contained therein.

IT HEREBY IS ORDERED, that the Stipulated Consent Decree (Docket No. 40) is APPROVED WITH MODIFICATION consistent with this Order.

FURTHER, that the Clerk of Court is directed to CLOSE this case.

FURTHER, that each party is granted leave to reopen without fees or costs by filing a Motion to Reopen demonstrating good cause within two years of the entry date of this Order.

FURTHER, that this Court retains jurisdiction over the Consent Decree for purposes of resolving any disputes that may arise from it or entering any orders that may be necessary to implement the relief contained therein.

SO ORDERED.

Dated: January 6, 2016
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge